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January 28, 2009

To the Honorable Senate and House of Representatives:

As provided in Article LXXXVII of the Amendments to the Constitution, I submit for your consideration, "An Act Reorganizing Certain Agencies of the Executive Department" (Reorganization Plan 2009-1).

This legislation restructures certain state agencies to make them more cost effective and responsive by consolidating programs and program staff within agencies whose mission and expertise will ensure the most coordinated, efficient operation of the programs.

Towards that end, the bill combines emergency shelter programs and related services currently run by the Department of Transitional Assistance with housing programs run by the Department of Housing and Community Development. This will help consolidate within DHCD a coordinated "Housing First" strategy aimed at quickly securing stable, permanent housing for homeless individuals and families in conjunction with other services that help them move out of poverty.

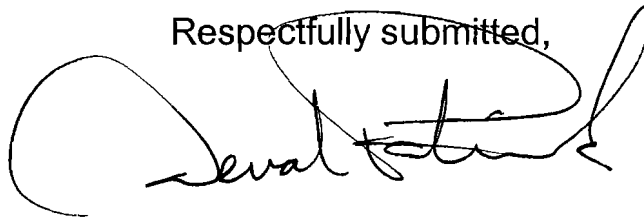
The bill also transfers: (a) the underground storage tank program from the Department of Fire Services to the Department of Environmental Protection; (b) the home improvement contractor program from the Department of Public Safety to the Office of Consumer Affairs and Business Regulation; (c) the wage reporting program from the Department of Revenue to the Division of Unemployment Assistance; (d) the well driller registration program from the Department of Conservation and Recreation to the

Department of Environmental Protection; and (e) the State Racing Commission to the Division of Professional Licensure.

All of the foregoing programs are being retained. The purpose of the bill is to consolidate each of them into agencies whose existing missions and staff most closely align with the programs so that maximum efficiencies and cost effectiveness can be achieved.

I urge your prompt and favorable consideration.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Gerald F. Stank". The signature is written in a cursive style with a large, looping initial "G" and a distinct "F".

Section 20. Persons engaged in business of digging or drilling wells; certification; reports

Section 20. No person shall engage in the business of digging or drilling wells within the commonwealth unless he has filed a certification with the department. Each person intending to engage in said business shall certify annually with said department and upon payment of a fee determined annually by the department shall be issued a certificate indicating that he is so certified. Said certification shall be sufficient authority for any said person to engage in the business of digging or drilling wells anywhere within the commonwealth and no further licensing or certification shall be required; provided, however, that nothing contained herein shall prohibit the appropriate local authority in any city or town from requiring any person engaged in the digging or drilling of private wells to obtain a site permit in accordance with terms and conditions which ensure health and safety and said city or town may charge said person a reasonable fee for said site permit as determined by the city or town.

Pursuant to chapter thirty A, the department shall adopt such regulations as it deems necessary to carry out the purposes of this section. Such regulations shall not be subject to section 3 of this chapter. Within thirty days after completion of any well by digging or drilling, the person engaged in the business of digging or drilling wells shall submit a report to the department setting forth such information as may be required under said rules and regulations.

SECTION 4. (a) Notwithstanding any general or special law to the contrary, this section shall facilitate the orderly transfer of employees, proceedings, rules and regulations, property and legal obligations of the following functions of state government from the transferor agency to the transferee agency, defined as follows:

(1) the functions of the department of conservation and recreation that relate to the administration and enforcement of the well driller registration program, as the transferor agency, to the department of environmental protection, as the transferee agency;

(b) To the extent that employees of the transferor agency, including those who were appointed immediately before the effective date of this act and who hold permanent appointment in positions classified under chapter 31 of the General Laws or have tenure in their positions as provided by section

9A of chapter 30 of the General Laws or do not hold such tenure, or hold confidential positions, are transferred to the respective transferee agency, such transfers shall be effected without interruption of service within the meaning of said section 9A of said chapter 31, without impairment of seniority, retirement or other rights of the employee, and without reduction in compensation or salary grade, notwithstanding any change in title or duties resulting from such reorganization, and without loss of accrued rights to holidays, sick leave, vacation and benefits, and without change in union representation or certified collective bargaining unit as certified by the state division of labor relations or in local union representation or affiliation. Any collective bargaining agreement in effect immediately before the transfer date shall continue in effect and the terms and conditions of employment therein shall continue as if the employees had not been so transferred. The reorganization shall not impair the civil service status of any such reassigned employee who immediately before the effective date of this act either holds a permanent appointment in a position classified under chapter 31 of the General Laws or has tenure in a position by reason of section 9A of chapter 30 of the General Laws. Notwithstanding any other general or special law to the contrary, all such employees shall continue to retain their right to collectively bargain pursuant to chapter 150E of the General Laws and shall be considered employees for the purposes of said chapter 150E. Nothing in this section shall be construed to confer upon any employee any right not held immediately before the date of said transfer, or to prohibit any reduction of salary grade, transfer, reassignment, suspension, discharge, layoff, or abolition of position not prohibited before such date.

(c) All petitions, requests, investigations and other proceedings appropriately and duly brought before the transferor agency or duly begun by the transferor agency and pending before it before the effective date of this act, shall continue unabated and remain in force, but shall be assumed and completed by the transferee agency.

(d) All orders, rules and regulations duly made and all approvals duly granted by the transferor agency, which are in force immediately before the effective date of this act, shall continue in force and shall thereafter be enforced, until superseded, revised, rescinded or canceled, in accordance with law, by the transferee agency.

(e) All books, papers, records, documents, equipment, buildings, facilities, cash and other property, both personal and real, including all such property held in trust, which immediately before the effective date of this act are in the custody of the transferor agency shall be transferred to the transferee agency.

(f) All duly existing contracts, leases and obligations of the transferor agency shall continue in effect but shall be assumed by the transferee agency. No existing right or remedy of any character shall be lost, impaired or affected by this act.

Transfer of the Underground Storage Tank Program from the Department of Fire Services to the Department of Environmental Protection

SECTION 5. Sections 38A through 38I, inclusive, of chapter 148 of the General Laws, as appearing in the 2006 Official Edition, are hereby repealed.

SECTION 6. The General Laws, as appearing in the 2006 Official Edition, are hereby amended by inserting after Chapter 21N the following chapter:-

Chapter 21O OPERATION AND REMOVAL OF UNDERGROUND STORAGE TANKS

Section 1: Removal or relocation of underground flammable or combustible fluid tanks; permits; abandoned underground residential tanks

Section 1. No underground tank which has been used for the keeping or storage of flammable or combustible fluids shall be removed or relocated unless a permit for such removal or relocation has first been obtained from the state fire marshal or the official designated by it to grant permits in the city, town or district where such tank is located. If the permit is issued by an official of a city, the fee for such permit shall be established by action of the city council or board of aldermen in the form of a duly adopted ordinance.

If the permit is issued by an official of a town, the fee for such permit shall be established by action of the town meeting or, if the town has no town meeting, by action of the town council, in either case in the form of a duly adopted bylaw. In no event shall any such ordinance or bylaw establish a fee

greater than two hundred dollars nor require payment of such fees by the commonwealth or any of its departments, boards, commissions, authorities, or political subdivisions.

The board of fire prevention regulations may from time to time, adopt, amend or repeal regulations, in accordance with the provisions of chapter thirty A, to insure that the removal, abandonment, or decommissioning of underground storage tanks which have been used for the keeping or storage of flammable or combustible fluids is done in a manner which protects public health, safety, welfare and the environment. Any violation of any regulation adopted by the board shall be presumed to constitute irreparable harm to public health, safety, welfare and the environment. Any person who violates any provisions of this section or any regulation, rule, order, permit or approval issued or adopted under the provisions of this section shall be subject to the penalties specified in section eight; provided, however, that such person shall have thirty days upon notification of the violation to begin compliance procedures with such provisions before any penalty may be imposed.

Upon abandonment of a tank, notice of such abandonment shall be reported to the board of health for the city or town in which such tank is located.

Section 2: Notification of operation of underground storage tanks; definitions

Section 2. As used in sections 3 through 9, the following terms shall have the following meanings:

"CERCLA", the Comprehensive Environmental Response Compensation and Liability Act of nineteen hundred and eighty, 12 U.S.C. section 9601 et seq., as may be amended from time to time.

"Department", the department of environmental protection.

"Guarantor", any person, other than a person liable pursuant to section five of chapter twenty-one E, who provides evidence of financial responsibility pursuant to this chapter.

"Regulated Substance", (a) any substance defined in section 101(4) of the Comprehensive Environmental Response Compensation and Liability Act of nineteen hundred and eighty, including waste oil but not including any other substance regulated as a hazardous waste under chapter twenty-one C, and (b)

petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (sixty degrees Fahrenheit and 14.7 pounds per square inch absolute).

"Operator", (1) in the case of an underground storage tank in use on November eighth, nineteen hundred and eighty-four, or brought into use after that date, any person in control of, or having responsibility for, the daily operation of an underground storage tank used for the storage, use, or dispensing of regulated substances or (2) in the case of any underground storage tank in use before November eighth, nineteen hundred and eighty-four, but not in use at any time on or after that date, any person who owns the land on or in which such tank is or was located.

"Owner", (1) in the case of an underground storage tank in use on November eighth, nineteen hundred and eighty-four, or brought into use after that date, any person who owns an underground storage tank used for the storage, use, or dispensing of regulated substances or (2) in the case of any underground storage tank in use before November eighth, nineteen hundred and eighty-four, but not in use at any time on or after that date, any person who owned such tank immediately before the discontinuance of such use.

"Person", any individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, the United States Government, state, municipality, commission, political subdivision of a state, interstate body, consortium, joint venture, commercial entity.

"RCRA", the Solid Waste Disposal Act, as revised by the Resource Conservation and Recovery Act, as may be further amended from time to time.

"Release", any spilling, leaking, emitting, discharging, escaping, leaching, or disposing from an underground storage tank into the ground water, surface water or subsurface soil.

"Head of Fire Department" the chief executive officer of the fire department in a city, town or fire district having such an office otherwise the fire commissioner, board of fire commissioners or fire engineers and, in towns not having a fire department the chief engineer, if any, otherwise the chairman of the board of selectmen.

"Trade Secret", anything tangible which constitutes, represents, evidences, or records a secret scientific, technical, merchandising, production or management information, design, process, procedure, formula, invention, or improvement.

"Underground storage tank", any one or combination of tanks, including, without limitation, underground pipes connected thereto, used to contain an accumulation of regulated substance and the volume of which, including the volume of underground pipes connected thereto, is ten percent or more beneath the surface of the ground. The term shall not include any of the following or any pipes connected to any of the following: (1) any septic tank; or (2) any pipeline facility, including gathering lines, which is regulated under (a) the Natural Gas Pipeline Safety Act of nineteen hundred and sixty-eight; or (b) the Hazardous Liquid Pipeline Safety Act of nineteen hundred and seventy-nine; or (3) any surface impoundment pit, pond, or lagoon; or (4) any storm water or waste water collection system; or (5) any flow through process tank; or (6) any liquid trap or associated gathering lines directly related to oil or gas production and gathering operations; or (7) any storage tank situated in an underground area, including without limitation, a basement, cellar, or mineworking drift, shaft or tunnel, if the storage tank is situated upon or above the surface of the floor, and all sides are accessible and visible.

Section 3: Notification of operation of underground storage tanks; requirements; exceptions

Section 3. Nothing in this chapter shall be construed to limit the authority that the department, the head of a fire department, any other department or agency of the Commonwealth, or a city, town, district, or other body politic has pursuant to any law.

(1) Each owner of an underground storage tank first put into operation on or after January first, nineteen hundred and ninety-one shall, within thirty days after the tank is first put into operation, notify the department of the existence of such tank, specifying the age, size, type, location, and uses of such tank. The requirements of this subsection (1) shall not apply to any underground storage tank that is (a) a farm or residential tank of one thousand and one hundred gallons or less capacity used for storing motor fuel for noncommercial purposes, or (b) a tank used for storing heating oil for consumptive purposes where stored. In prescribing the form of such notice, the department shall take into account the form of the notice prescribed pursuant to section 9002 of RCRA and the effect on small businesses and other owners and operators.

(2) The requirements of this subsection (2) shall not apply to any underground storage tank that is (a) a farm or residential tank of 1,100 gallons or less capacity used for storing motor fuel for

noncommercial purposes, or (b) a tank used for storing heating oil for consumptive use on the premises where stored. By no later than January thirty-first, nineteen hundred and ninety-one, each owner of an underground storage tank that was in operation at any time after January first, nineteen hundred and seventy-four and before January first, nineteen hundred and ninety-one, regardless of whether or not such tank was removed from beneath the surface of the ground at any time, shall notify the department of the existence of such tank, specifying, to the extent known to the owner, the size, type, and location of the tank, and the quantity of substances stored in such tank before the tank ceased being in operation if the tank was removed from beneath the surface of the ground, prior to the submittal of such notice to the department, such notice shall also specify, to the extent known to the owner, the date the tank was removed from beneath the surface of the ground, prior to the submittal of such notice to the department. In prescribing the form of such notice, the department shall take into account the form of the notice prescribed pursuant to section 9002 of RCRA and the effect on small businesses and other owners and operators.

(3) The requirements of this subsection (3) shall not apply to any underground storage tank that is (a) a farm or residential tank of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes, or (b) a tank used for storing heating oil for consumptive use on the premises where stored. By no later than December thirty-first, nineteen hundred and ninety-one, each owner of an underground storage tank that was not in operation at any time after January first, nineteen hundred and seventy-four and that was not removed from beneath the surface of the ground on or before January first, nineteen hundred and seventy-four, or the operator of any such tank that has no owner or whose owner cannot be definitely ascertained, shall notify the department of the existence of such tank, specifying, to the extent known to the owner, the size, type, and location of the tank, and the type and quantity of substance stored in such tank before the tank ceased being in operation if the tank was removed from beneath the surface of the ground. If the tank was not removed from beneath the surface of the ground prior to the submittal of such notice to the department such notice shall also specify, to the extent known to the owner or operator, the date the tank was removed from beneath the surface of the ground and age of the tank and all methods used to stabilize the tank after the tank ceased being in operation. In prescribing

the form of the notice, the department shall take into account the form of the notice prescribed pursuant to section 9002 of RCRA and the effect on small businesses and other owners and operators.

Section 4: Notification of operation of underground storage tanks; enforcement; safety regulations

Section 4. The department shall enforce the provisions of this chapter and may, subject to the provisions contained herein, take all action necessary and appropriate to secure to the commonwealth the benefits of subtitle I of RCRA, including without limitation, obtaining federal grants. The department may, from time to time, adopt, amend, or repeal regulations as it deems necessary to accomplish the following purposes: (1) provide for the safe storage, use, handling and manufacturing of regulated substance(s) in or about any underground storage tank; or (2) protect public health, safety, and welfare, and the environment, from any release of a regulated substance from any underground storage tank; or (3) implement, administer, and enforce any provisions of this chapter.

Section 5: Notification of operation of underground storage tanks; regulations for requirements and standards of tanks

Section 5. The department may, from time to time, adopt, amend, or repeal regulations, as it deems necessary to establish the following requirements and standards for underground storage tanks:

(1) requirements for maintaining a leak detection system, an inventory control system together with tank testing, or a comparable system or method designed to identify releases in a manner consistent with protection of human health and the environment;

(2) requirements for maintaining records of any monitoring or leak detection system or inventory control system or tank testing system;

(3) requirements for reporting of any releases and corrective action taken in response to a release from an underground tank;

(4) requirements for taking corrective action in response to a release from an underground storage tank; provided, that such requirements shall be consistent with and not duplicative of the Massachusetts Contingency Plan pursuant to chapter twenty-one E;

(5) requirements for the closure of tanks to prevent future releases of regulated substance into the environment;

(6) requirements for maintaining evidence of financial responsibility for taking corrective action and compensating third parties for bodily injury and property damage caused by sudden and nonsudden accidental release arising from operating an underground storage tank;

(7) standards of performance for new underground storage tanks; and

(8) requirements (a) for notifying the department and the head of the fire department designated according to section 9002- (b) (1) of the existence of any operational or nonoperational underground storage tank: and (b) for providing the information required on the form issued pursuant to section 9002 (b) (2).

Section 6: Notification of operation of underground storage tanks; furnishing information; inspections

Section 6. For any of the purposes set forth in this chapter, and for the purposes of developing or assisting in the development of any regulation pursuant to this chapter, or conducting any study mandated by Congress or by the General Court, any owner or operator of an underground storage tank shall upon request of the department, the head of the fire department, and their personnel or authorized agents, furnish information relating to such tanks, their associated equipment and their contents, conduct monitoring or testing, and permit the department, the head of the fire department, and their personnel or authorized agents, to have access to, and to copy all records relating to, such tanks. For any of the purposes set forth in section four, and for the purposes of developing or assisting in the development of any regulation pursuant to this chapter, or conducting any study mandated by Congress or by the General Court, the department, the head of the fire department, and their personnel or authorized agents, are authorized (1) to enter at reasonable times any establishment or other place where an underground storage

tank is located; and (2) to inspect and obtain samples from any person of any regulated substance contained in such tank; and (3) to conduct monitoring or testing of the tanks, associated equipment, contents, or surrounding soils, air, surface water or ground water. Each such inspection shall be commenced and completed with reasonable promptness.

Section 7: Notification of operation of underground storage tanks; violation prevention; orders

Section 7. Whenever it appears that there is a violation of any provision of this chapter or any regulation, rule, order, permit or approval adopted or issued pursuant to this chapter, the department or head of the fire department may issue to a person causing or contributing, or likely to cause or contribute, to such violation or potential violation an order requiring the production or analysis of samples, or the production of records, or imposing such restraints on or requiring such action by said person, as the department or the head of the fire department reasonably deems necessary or desirable to abate or to prevent such violation or potential violation. Issuance of an order under this section shall not preclude, and shall not be deemed an election to forego, any other remedy authorized by law.

Section 8: Notification of operation of underground storage tanks; violation of statutes; penalties

Section 8. No person shall violate, or allow or suffer any employee, agent, or contractor to violate, any provision of this chapter, or of any regulation, rule, order, permit or approval adopted or issued pursuant to this chapter. Any violation of any provision of this chapter, or of any regulation, rule, order, permit or approval adopted or issued pursuant to this chapter shall be presumed to constitute irreparable harm to public health, safety and welfare, and to the environment. Such presumption may be rebutted by the introduction of competent evidence. Any person who violates any provisions of this chapter, or any regulation, rule, order, permit or approval issued or adopted under the provisions of this chapter, (a) shall be punished by a fine not to exceed twenty-five thousand dollars, or by imprisonment for not more than two years, or both; or (b) shall be subject to a civil penalty not to exceed twenty-five

thousand dollars for each such violation. Each day each such violation occurs or continues shall be deemed a separate offense. This shall be in addition to any other penalty or remedy prescribed by law.

The superior court department of the trial court shall have jurisdiction to assess civil penalties as set forth in this section, and to enjoin violations of, and grant such additional relief as it deems necessary or appropriate to secure compliance with, the provisions of this chapter, or any regulation, rule, order, permit or approval adopted or issued pursuant to this chapter, upon petition of the attorney general, a district attorney, the department, the head of the fire department, or a city or town.

Section 9: Notification of operation of underground storage tanks; confidentiality of information; exclusivity of remedy

Section 9. Notwithstanding the provisions of any general or special law to the contrary, any information, record, or particular part thereof, obtained by the department or by the head of the fire department or by their respective personnel or contractors pursuant to the provisions of this chapter, upon request, shall be confidential and not be considered to be a public record when it is determined by the department or by the head of the fire department, as the case may be, that such information, record, or particular part thereof, if made public, would divulge a trade secret. This section shall not prevent disclosure of any information necessary for an enforcement action or to comply with Federal law or regulations. The exclusive remedy for any person aggrieved by a determination of the department or of the head of the fire department, as the case may be, pursuant to this section shall be a civil action in the nature of certiorari pursuant to section four of chapter two hundred and forty-nine; provided, that the action shall be commenced within thirty days of the date of the determination. Notwithstanding the provisions of any general or special law to the contrary, any information, record, or particular part thereof, obtained by the department, or by the head of the fire department or by their respective personnel or contractors pursuant to the provisions of this chapter shall be a public record unless it is not a public record pursuant to this section or pursuant to any other law. \

SECTION 7. (a) Notwithstanding any general or special law to the contrary, this section shall facilitate the orderly transfer of the proceedings, rules and regulations, property and legal obligations of the following functions of state government from the transferor agency to the transferee agency, defined as follows:

(1) the functions of the department of fire services and the board of fire prevention regulations that relate to the administration and enforcement of the underground storage tank program, previously codified as sections 38A through 38I, inclusive, of chapter 148 of the General Laws, as the transferor agency, to the Department of Environmental Protection, as the transferee agency.

(b) All petitions, requests, investigations and other proceedings appropriately and duly brought before the transferor agency or duly begun by the transferor agency and pending before it before the effective date of this act, shall continue unabated and remain in force, but shall be assumed and completed by the transferee agency.

(c) All orders, rules and regulations duly made and all approvals duly granted by the transferor agency, which are in force immediately before the effective date of this act, shall continue in force and shall thereafter be enforced, until superseded, revised, rescinded or canceled, in accordance with law, by the transferee agency.

(d) All books, papers, records, documents, and equipment, which immediately before the effective date of this act are in the custody of the transferor agency shall be transferred to the transferee agency.

Transfer of the Home Improvement Contractor Program from the Department of Public Safety to the Office of Consumer Affairs and Business Regulation

SECTION 8. Section 1 of chapter 142A of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out the definition of “Administrator.”

SECTION 9. Section 2 of chapter 142A, as so appearing, is hereby amended by striking out, in lines 31, 32 and 33, the word “administrator” and inserting in place thereof the following word:- director.

SECTION 10. Section 7 of chapter 142A, as so appearing, is hereby amended by striking out, in lines 27 and 28, the word “administrator” and inserting in place thereof the following word:- director.

SECTION 11. Section 9 of chapter 142A, as so appearing, is hereby amended by striking out, in lines 3 and 4, the words “bureau of building regulations and standards” and inserting in place thereof the following words:- office of consumer affairs and business regulation.

SECTION 12. Section 9 of chapter 142A, as so appearing, is hereby further amended by striking out, in line 5, the word “administrator” and inserting in place thereof the following word:- director.

SECTION 13. Section 10 of chapter 142A, as so appearing, is hereby amended by striking out, in lines 2 and 3, the word “administrator” and inserting in place thereof the following word:- director.

SECTION 14. Section 11 of chapter 142A, as so appearing, is hereby amended by striking out, in lines 26, 31, 35, 37, 39 and twice in line 13, the word “administrator” and inserting in place thereof the following word:- director.

SECTION 15. Section 12 of chapter 142A, as so appearing, is hereby amended by striking out, in lines 3 and 20, the word “administrator” and inserting in place thereof the following word:- director.

SECTION 16. Section 13 of chapter 142A, as so appearing, is hereby amended by striking out, in lines 1, 10, 11, 13, 17, 19, and 20, the word “administrator” and inserting in place thereof the following word:- director.

SECTION 17. Section 15 of chapter 142A, as so appearing, is hereby amended by striking out, in line 2, the word “administrator” and inserting in place thereof the following word:- director.

SECTION 18. Section 15 of chapter 142A, as so appearing, is hereby further amended by striking out, in lines 2 and 3, the words “upon recommendation by the advisory board and”.

SECTION 19. Section 16 of chapter 142A, as so appearing, is hereby amended by striking out, in lines 1 and 5, the word “administrator” and inserting in place thereof the following word:- director.

SECTION 20. Section 17 of chapter 142A, as so appearing, is hereby amended by striking out, in lines 3, 4, and 35, the word “administrator” and inserting in place thereof the following word:- director.

SECTION 21. Section 17 of chapter 142A, as so appearing, is hereby further amended by striking out, in line 45, the words “administrator or fund administrator” and inserting in place thereof the following words:- director or fund administrator.

SECTION 22. Section 18 of chapter 142A, as so appearing, is hereby amended by striking out, in lines 1, 2, 3, 4, 6, 11, and 12, the word “administrator” and inserting in place thereof the following word:- director.

SECTION 23. Section 20 of chapter 142A, as so appearing, is hereby amended by striking out, in lines 1 and 10, the word “administrator” and inserting in place thereof the following word:- director.

SECTION 24. (a) Notwithstanding any general or special law to the contrary, this section shall facilitate the orderly transfer of the employees, proceedings, rules and regulations, property and legal obligations of the following functions of state government from the transferor agency to the transferee agency, defined as follows:

(1) the functions of the department of public safety and the board of building regulations and standards that relate to the administration and enforcement of the home improvement contractor program, as the transferor agency, to the office of consumer affairs and business regulation, as the transferee agency;

(b) The employees of the transferor agency, including those who were appointed immediately before the effective date of this act and who hold permanent appointment in positions classified under chapter 31 of the General Laws or have tenure in their positions as provided by section 9A of chapter 30 of the General Laws or do not hold such tenure, or hold confidential positions, are hereby transferred to the transferee agency, without interruption of service within the meaning of said section 9A of said chapter 31, without impairment of seniority, retirement or other rights of the employee, and without reduction in compensation or salary grade, notwithstanding any change in title or duties resulting from such reorganization, and without loss of accrued rights to holidays, sick leave, vacation and benefits, and without change in union representation or certified collective bargaining unit as certified by the state division of labor relations or in local union representation or affiliation. Any collective bargaining agreement in effect immediately before the transfer date shall continue in effect and the terms and conditions of employment therein shall continue as if the employees had not been so transferred. The reorganization shall not impair the civil service status of any such reassigned employee who immediately before the effective date of this act either holds a permanent appointment in a position classified under chapter 31 of the General Laws or has tenure in a position by reason of section 9A of chapter 30 of the General Laws.

Notwithstanding any other general or special law to the contrary, all such employees shall continue to retain their right to collectively bargain pursuant to chapter 150E of the General Laws and shall be considered employees for the purposes of said chapter 150E.

Nothing in this section shall be construed to confer upon any employee any right not held immediately before the date of said transfer, or to prohibit any reduction of salary grade, transfer, reassignment, suspension, discharge, layoff, or abolition of position not prohibited before such date.

(c) All petitions, requests, investigations and other proceedings appropriately and duly brought before the transferor agency or duly begun by the transferor agency and pending before it before the effective date of this act, shall continue unabated and remain in force, but shall be assumed and completed by the transferee agency.

(d) All orders, rules and regulations duly made and all approvals duly granted by the transferor agency, which are in force immediately before the effective date of this act, shall continue in force and shall thereafter be enforced, until superseded, revised, rescinded or canceled, in accordance with law, by the transferee agency.

(e) All books, papers, records, documents, equipment, buildings, facilities, cash and other property, both personal and real, including all such property held in trust, which immediately before the effective date of this act are in the custody of the transferor agency shall be transferred to the transferee agency.

(f) All duly existing contracts, leases and obligations of the transferor agency shall continue in effect but shall be assumed by the transferee agency. No existing right or remedy of any character shall be lost, impaired or affected by this act.

Transfer of the State Racing Commission to the Division of Professional Licensure

SECTION 25. Chapter 6 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out section 48 and inserting in place thereof the following section:-

Section 48. There shall be within the division of professional licensure a commission to be known as the state racing commission, in this section and in chapters 128A and 128C inclusive called the commission. The commission shall be deemed a board serving in the division of professional licensure, within the meaning of sections 8, 9, 9A, 9B and 9C of chapter 13.

The commission shall consist of three commissioners, a chairman and two associate commissioners, all to be appointed by the governor and serve coterminous with him. Not more than two of such commissioners shall be of the same political party. The day-to-day operations and general administration of the commission, including all administrative functions of the commission and all

actions not expressly required by statute or regulation to be carried out by the commission itself, shall, at the direction and under the control of the director of the division of professional licensure, be under the supervision of an executive director, who shall be appointed by the director of the division of professional licensure with the approval of the director of consumer affairs and business regulation. The executive director shall devote his full time during business hours to his duties hereunder. The director of the division of professional licensure may employ, as employees of the division of professional licensure, such other persons, in addition to the aforementioned executive director, as the director of the division of professional licensure may determine to be necessary to carry out such day-to-day operations and general administration of the commission.

Each commissioner shall hold office until the appointment and qualification of his successor. The governor may remove any commissioner for cause and shall fill any vacancy for the unexpired term. Whenever any action by the commission is required to be in writing, such writing shall be sufficient when signed by the commission chairman.

The commission shall make an annual report in January of each year to the general court. That report shall include the following information with respect to the previous calendar year: statements of monies deposited in the Running Horse Capital Improvements Trust Fund and the Running Horse Promotional Trust Fund, each established under section 11 of chapter 494 of the acts of 1978, the Harness Horse Capital Improvements Trust Fund and the Harness Horse Promotional Trust Fund, each established under section 12 of said chapter 494, together with a detailed account of monies disbursed from the funds, the specific capital improvements and promotions for which the disbursements were intended, and a report on which of the improvements and promotions have been accomplished; a statement of racing dates awarded to licensees, including those awarded in connection with a state or county fair; and a statement of the total amounts wagered at each race track, together with the monies paid to the commonwealth and the commission, purses paid to horse owners and monies retained by each licensee, together with a statement of the net profit of each licensee taken from the financial statements filed under section 6 of chapter 128A. Copies of the report shall be transmitted to the governor, the president of the

senate, the speaker of the house of representatives, the chairmen of the house and senate committees on ways and means, the joint committee on government regulations and the joint committee on taxation.

SECTION 26. Section 17 of chapter 6 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out, in lines 7 and 8, the words “the state racing commission,”.

SECTION 27. Subsection (c) of section 16G of chapter 6A of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out, in line 18, the words “the state racing commission,”.

SECTION 28. Section 22B½ of chapter 7 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out, in lines 25 and 26, the words “Massachusetts Racing Commission,”.

SECTION 29. Subsection (b) of section 9 of chapter 13 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting after the word “chapter”, in line 9, the following words:- , as well as the state racing commission established by section 48 of chapter 6,.

SECTION 30. Subsection (e) of section 9B of chapter 13, as so appearing, is hereby amended by inserting after the word “chapter”, in line 47, the following words:- , as well as the state racing commission established by section 48 of chapter 6,.

SECTION 31. Subsection (e) of section 9B of chapter 13, as so appearing, is hereby further amended by inserting after the word “chapter”, in line 49, the following words:- or regulated by the state racing commission, as established by section 48 of chapter 6.

SECTION 32. Subsection (b) of section 1 of chapter 24A of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out, in line 22, the words “the state racing commission;”.

SECTION 33. Section 7 of chapter 30 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out, in lines 8 and 9, the words “the alcoholic beverages control commission and the state racing commission” and inserting in place thereof the following words:- and the alcoholic beverages control commission.

Consolidation of Homeless Shelter Programs Under the Department of Housing and Community Development

SECTION 34. Section 2 of chapter 18 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting after the words “as needed”, in line 10, the following words:- except with respect to housing needs as provided for under section 30 of chapter 23B

SECTION 35. Section 2 of chapter 18, as so appearing, is hereby further amended by striking out lines 94 through 138.

SECTION 36. Section 2 of chapter 18, as so appearing, is hereby further amended by inserting, in line 139, at the beginning of the sentence, the following word:- (D)

SECTION 37. Chapter 23B of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting after section 29 the following section:-

Section 30. Subject to appropriation, the department shall administer a program of emergency housing assistance to needy families with children and pregnant woman with no other children. The commonwealth shall accept funds from the appropriate federal authorities for said program.

(A) The department shall promulgate rules and regulations to establish the levels of benefits available under the program and to ensure simplicity of administration in the best interest of needy recipients. Such benefits shall include, but not be limited to, the following:—

(a) for the prevention of the loss of housing, the actual liability up to three times the monthly rental or mortgage liability;

(b) for the prevention of utility shutoffs or for the resumption of utility services, up to three months of the actual service liabilities;

(c) for the provision of home heating assistance, up to three months of the actual fuel liabilities.

(d) The department shall promulgate regulations which would authorize the department to make payments for a fourth month of rent, utility or fuel arrearages if the director certifies in writing that the family would otherwise become homeless, or be without utilities or fuel.

(e) for the prevention of homelessness, temporary shelter as necessary to alleviate homelessness when such family has no feasible alternative housing available, storage of furniture for up to thirty days; moving expenses; advance rent payments of one month's rent; and security deposit not to exceed one month's rent.

The department shall establish procedures, consistent with federal law, to require applicants for the program to also submit an application for federal energy assistance where appropriate. No benefits for a particular emergency shall be provided to an applicant family under the emergency assistance program when benefits are available within seven days of application under the federal assistance program to meet such particular emergency.

(B) The department shall promulgate rules and regulations to establish the requirements and standards for eligibility. Subject to appropriation, such regulations shall provide that a needy family shall be eligible for assistance under the emergency assistance program if its income is within the income limits for the program of aid to families with dependent children established pursuant to chapter one hundred and eighteen.

Emergency housing assistance shall not be granted to a family who, but for the assignment or transfer of real or personal property at any time within one year immediately prior to the filing of an application for emergency housing assistance, would not be eligible for such assistance .

The department shall take all reasonable actions to minimize abuse and errors. Such activities shall include:—

(a) the collection and analysis of data regarding utilization patterns;

(b) the recording and tracking of use of this program by individual recipients, including, but not limited to, the utilization of a year to year cross check of recipients to determine if a person or persons has received similar benefits in the previous year or years;

(c) the utilization by the department of mechanisms, such as payment of all or part of a regular assistance grant directly to vendors, to prevent the misuse of this program, provided, however, that such mechanisms are authorized under federal or state law;

(d) the utilization of wage reporting and bank matching systems, provided, however, that the provision of assistance shall not be delayed by such utilization;

(e) the verification of all elements of eligibility. Such verification requirements, including home visits by workers assigned to recipients, shall be reasonable and in accordance with federal law and regulations, where applicable. The department shall determine which verification requirements can be reasonably met by third party affidavits and shall provide notification to recipients and applicants of the circumstances when third party affidavits may be used. The department shall establish reasonable procedures for the verification of continuing eligibility, including monthly reporting and retrospective budgeting where appropriate.

(C) Subject to federal approval of any necessary waivers, the department shall use the warrant management system established pursuant to section twenty-three A of chapter two hundred and seventy-six; and, in accordance with section 11 of chapter 14 and the rules and regulations of the fraudulent claims commission, the department shall forward the name of any applicant or beneficiary of emergency housing assistance who, according to said warrant management system, has an outstanding default or arrest warrant issued against him; and the department shall comply with existing state and federal law applicable to time standards for review and determination of eligibility, and all notice and hearing requirements afforded to applicants and beneficiaries under its emergency housing assistance programs; and

The department shall not issue a check or grant any benefits of any kind to or on behalf of an applicant for or recipient of emergency housing assistance benefits against whom an outstanding default

or arrest warrant has issued by any court of the commonwealth. Evidence of the outstanding default or arrest warrant appearing in said warrant management system shall be sufficient grounds for such action by the department.

If a hearing is requested to challenge the termination of benefits due to an outstanding default or arrest warrant, the law enforcement agency responsible for the warrant shall be notified of the time, place, date of hearing and the subject of the warrant. An affidavit from the law enforcement agency responsible for the warrant or from the colonel of the state police may be introduced as prima facie evidence of the existence of a warrant without the need for members of that law enforcement agency to attend any hearings held under this section.

(D) Any person or institution which knowingly makes a false representation or, contrary to a legal duty to do so, knowingly fails to disclose any material fact affecting eligibility or level of benefits to the department or its agents, for the purpose of causing any person, including the person making such representations, to be eligible for emergency housing assistance, shall be punished by a fine of not less than two hundred nor more than five hundred dollars or by imprisonment for not more than one year.

Nothing in this section shall be construed as preventing the institution of criminal proceedings for the violation of any other law of the commonwealth.

(E) Any vendor under the emergency housing assistance program administered by the department shall submit to the department, within six months of the last day of the month in which such service was rendered, a bill for the same. For the purposes of this chapter a vendor shall be any person or institution providing services in connection with any assistance program administered by the department. All vouchers submitted by a vendor shall be signed under the penalties of perjury.

(F) There shall be within the office of the chief counsel a division of hearings for the purpose of holding the hearings referred to herein and rendering decisions. Said division shall be under the supervision of a hearings manager appointed by the director and shall be independent of all other divisions and personnel of the department.

Any person aggrieved by the failure of the department to render adequate aid or assistance under the emergency housing assistance program administered by the department or to approve or reject an application for aid or assistance thereunder within forty-five days after receiving such application, or aggrieved by the withdrawal of such aid or assistance, or by coercive or otherwise improper conduct on the part of the emergency housing assistance program staff, shall have a right to a hearing, after due notice, upon appeal to the director.

A hearing held pursuant to this section shall be conducted by a hearing officer designated by the hearings manager at a location convenient to the person appealing and shall be conducted as an adjudicatory proceeding under chapter thirty A. The hearings manager shall be responsible for the fair and efficient operation of the division in conformity with state and federal laws and regulations and for the training of hearing officers, scheduling of hearings and the compilation of decisions. No employee other than the hearings manager shall review, interfere with, change or attempt to influence any hearing decision by a hearing officer. The decision of the hearing officer shall be the decision of the department.

A hearing officer shall render and issue his decision within ninety days after the date of the filing of the aggrieved person's appeal, except that when an aggrieved person appeals the rejection of his application for aid or assistance, or the failure to act on said application, or the failure of the department to render assistance to meet an emergency or hardship situation, the hearing officer shall render and issue the decision within forty-five days after the date of filing of said appeal. The decision of the department shall be subject to review in accordance with the provisions of chapter thirty A.

When a timely request for a hearing is made because of a termination or reduction of assistance that has been provided on the basis of a final determination of eligibility, involving an issue of fact, or of judgment relating to an individual case, between the agency and the appellant, assistance shall be continued during the period of the appeal. If the decision is adverse to the appellant, assistance shall be terminated immediately. If assistance has been terminated prior to a timely request for a hearing, assistance shall be reinstated.

SECTION 38: To the extent that employees of the department of transitional assistance are transferred to the department of housing and community development in connection with sections 34 through 37 of this Act, any collective bargaining agreement in effect immediately before the transfer of any such employees pursuant to the foregoing shall continue in effect and the terms and conditions of employment therein shall continue as if the employees had not been so transferred. The transfer shall not impair the civil service status of any such reassigned employee who, immediately before the effective date of this act, either holds a permanent appointment in a position classified under chapter 31 of the General Laws or has tenure in a position by reason of section 9A of chapter 30 of the General Laws. Notwithstanding any general or special law to the contrary, all such employees shall continue to retain their right to collectively bargain pursuant to chapter 150E of the General Laws and shall be considered employees for the purposes of said chapter 150E. Nothing in this section shall be construed to confer upon any employee any right not held immediately before the date of said transfer.

Transfer of Wage Reporting from the Department of Revenue to the Division of Unemployment Assistance

SECTION 39. Section 1 of chapter 62E of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out, in line 4, the words “section 9 of chapter 14” and inserting in place thereof the following words:- section 16 of chapter 11.

SECTION 40. Section 1 of chapter 62E, as so appearing, is hereby further amended by striking out, in the sixth paragraph, the definition of “Employer” and inserting in place thereof the following definition:-

“Employer”, an employing unit subject either to chapter 151A, section 14P, or to chapter 62B.

SECTION 41. Section 1 of chapter 62E, as so appearing, is hereby further amended by striking out, in the seventh paragraph, the definition of “Employee” and inserting in place thereof the following definition:-

“Employee”, an individual employed by an employer subject either to chapter 151A or to chapter 62B.

SECTION 42. Section 1 of chapter 62E, as so appearing, is hereby further amended by striking out, in the last paragraph, the definition of “Reporting system” and inserting in place thereof the following three definitions:-

“Reporting systems”, the wage reporting system, new hire and other reporting systems established in section 2, and financial institution match system established in section 4.

“Wage records”, reports submitted by employers to the Director of the Division of Unemployment Assistance pursuant to chapter 151A, section 14P.

“Wage reporting system”, a system of wage records that are provided by the Director of the Division of Unemployment Assistance to the Commissioner pursuant to an interagency agreement.

SECTION 43. Section 2 of chapter 62E, as so appearing, is hereby amended by striking out the first two sentences.

SECTION 44. Section 2 of chapter 62E, as so appearing, is hereby further amended by striking out, in line 10, the words “, in addition,”.

SECTION 45. Section 2 of chapter 62E, as so appearing, is hereby further amended by striking out the last three sentences and inserting in place thereof the following:- The commissioner shall, by regulation, prescribe the timing, the form, and the manner of such reports and the information to be provided in the reports, which may include disclosure of the existence of an outstanding child support order. All such reports shall be part of the reporting systems.

SECTION 46. Chapter 62E, as so appearing, is hereby further amended by inserting after section 2 the following section:-

Section 2A. Notwithstanding any other provision of this chapter, the new hire reporting requirements of this chapter and the penalties associated with the failure to comply with those

requirements shall apply to any entity electing to report new hire information to the Commonwealth pursuant to the multi-state employer provisions of 42 U.S.C. § 653a(b)(1)(B).

SECTION 47. Section 3 of chapter 62E, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words “The commissioner shall design, develop, implement and operate a wage reporting and financial institution match system:” and inserting in place thereof the following:- The commissioner shall design, develop and implement a financial institution match system and shall operate the reporting systems:

SECTION 48. Section 3 of chapter 62E, as so appearing, is hereby further amended by striking out, in lines 3 and 4, the words “an entitlement” and inserting in place thereof the following words:- a public benefit.

SECTION 49. Section 3 of chapter 62E, as so appearing, is hereby further amended by striking out, in lines 8 and 9, the words “for free care services made from the uncompensated care pool pursuant to section 18 of chapter 118G” and inserting in place thereof the following words:- made from the health safety net trust fund.

SECTION 50. Section 3 of chapter 62E, as so appearing, is hereby further amended by striking out, in line 16, the word “system” and inserting in place thereof the following word:- systems.

SECTION 51. Section 3 of chapter 62E, as so appearing, is hereby further amended by striking out, in line 23, the word “system” and inserting in place thereof the following word:- systems.

SECTION 52. Section 3 of chapter 62E, as so appearing, is hereby further amended by striking out the second to last sentence and inserting in place thereof the following sentence:- Such information shall be utilized in the reporting systems as a post audit mechanism for the purpose of verifying eligibility and

detecting and preventing fraud, error and abuse in public benefits provided by agencies of the commonwealth.

SECTION 53. Section 3 of chapter 62E, as so appearing, is hereby further amended by striking out, in the last sentence, the words “this reporting system” and inserting in place thereof the following words:- the reporting systems.

SECTION 54. Section 3 of chapter 62E, as so appearing, is hereby further amended by adding after the existing text the following new paragraph:-

The provisions of this chapter do not apply to the utilization and dissemination of wage records by the Division of Unemployment Assistance.

SECTION 55. Section 4 of chapter 62E, as so appearing, is hereby amended by striking out paragraph (f) and inserting in place thereof the following paragraph:-

(f) All reports under this section shall be part of the reporting systems.

SECTION 56. Section 5 of chapter 62E, as so appearing, is hereby amended by striking out, in the first sentence, the words “to him under the reporting system” and inserting in place thereof the following words:- under the reporting systems.

SECTION 57. Section 5 of chapter 62E, as so appearing, is hereby further amended by striking out, in line 3, the words “system” and inserting in place thereof the following word:- systems.

SECTION 58. Section 5 of chapter 62E, as so appearing, is hereby further amended by inserting, at the end of the second sentence, the following words:- , or other information as determined by the commissioner.

SECTION 59. Section 5 of chapter 62E, as so appearing, is hereby further amended by striking out, in the third sentence, the words “presented in accordance” through the end of the sentence and inserting in place thereof the following words:- , including consultation with the recipient whose status is in question.

SECTION 60. Section 5 of chapter 62E, as so appearing, is hereby further amended by striking out, in the last sentence, the word “system” and inserting in place thereof the following word:- systems.

SECTION 61. Section 6 of chapter 62E, as so appearing, is hereby amended by striking out, in lines 4 through 13, the words “in accordance with regulations” and all that follows through the end of the section.

SECTION 62. Section 6B of chapter 62E, as so appearing, is hereby amended by striking out, in line 3, the words “, pursuant to procedures established by said commission,”.

SECTION 63. Section 7 of chapter 62E, as appearing, is hereby amended by striking out, in lines 1 and 8, the words “administering departments” and inserting in place thereof the following words:- commissioner and the administering department.

SECTION 64. Section 7A of chapter 62E, as so appearing, is hereby amended by striking out, in lines 1 through 3, the words “wage reporting data compiled by the department from the quarterly reports filed by employers” and inserting in place thereof the following words:- reporting systems.

SECTION 65. Section 8 of chapter 62E, as so appearing, is hereby amended by striking out, in line 8, the word “system” and inserting in place thereof the following word:- systems.

SECTION 66. Section 9 of chapter 62E, as so appearing, is hereby amended by striking out, in line 15, the word “treasurer” and inserting in place thereof the following word:- person.

SECTION 67. Section 10 of chapter 62E is hereby repealed.

SECTION 68. Section 11 of chapter 62E, as appearing in the 2006 Official Edition, is hereby amended by striking out, in the first sentence, the words “establish a program of wage and financial institution information sharing” and inserting in place thereof the following words:- share reporting system information.

SECTION 69. Section 11 of chapter 62E, as so appearing, is hereby further amended by striking out, in the third sentence, the words “wage reporting system” and inserting in place thereof the following words:- reporting systems.

SECTION 70. Section 11 of chapter 62E, as so appearing, is hereby further amended by striking out, in the fourth sentence, the words “wage and financial institution information” and inserting in place thereof the following words:- reporting system information.

SECTION 71. Section 12 of chapter 62E, as so appearing, is hereby amended by striking out, in the first sentence, the words “wage and financial institution information data” and inserting in place thereof the following words:- reporting system information.

SECTION 72. Section 12 of chapter 62E, as so appearing, is hereby further amended by striking out, in the first sentence of the second paragraph, the words “wage reporting system” and inserting in place thereof the following words:- reporting systems.

SECTION 73. Section 12 of chapter 62E, as so appearing, is hereby further amended by striking out, in the second sentence of the second paragraph, the words “wage reporting and financial institution match system” and inserting in place thereof the following words:- reporting systems.

SECTION 74. Section 12 of chapter 62E, as so appearing, is hereby further amended by striking out, in the second sentence of the second paragraph, the words “relating to administration of the tax laws, public

assistance programs of the commonwealth or any political subdivision thereof or their respective agencies, workers' compensation laws or the child support enforcement program of the commonwealth;"

SECTION 75. Section 12 of chapter 62E, as so appearing, is hereby further amended by striking out, in the last sentence of the second paragraph, the words "wage reporting data" and inserting in place thereof the following words:- reporting system information.

SECTION 76. Section 13 of chapter 62E, as so appearing, is hereby repealed.

SECTION 77. Section 14G of chapter 151A of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out subsection (g).

SECTION 78. Chapter 151A, as so appearing, is hereby further amended by adding after section 14 O the following new section: -

Section 14P. (a) As used in this section the following words shall, unless the context clearly requires otherwise, have the following meanings:

- (1) "Director", the director of the division of unemployment assistance.
- (2) "Division", the division of unemployment assistance.
- (3) "Employee", any individual employed by an employer subject either to this chapter or to chapter sixty-two B.

- (4) "Employer", any employing unit subject either to this chapter or to chapter sixty-two B.

(b) All employers who are or become either subject to the provisions of this chapter or subject to the provisions of chapter sixty-two B shall register with the division in the time, form and manner as may be prescribed by the director.

(c) Beginning with the calendar quarter ending December 31, 2009, every employer as defined in this section shall, for each calendar quarter, submit in the time, form and manner as may be prescribed by the director a report containing, but not limited to, the following information for each employee: name,

social security number, wages paid as defined in section 1(s) of this chapter, hours worked, total amount of taxes withheld under the provision of chapter sixty-two B and the amount of wages as defined in section 1 of chapter sixty-two B upon which the withholding was based, the identification number assigned the employer by the division, the corresponding federal employer identification number and the identification number such employer is required to include on a withholding tax return filed pursuant to chapter sixty-two B. The report also shall include the count of all employees as defined in section 1(h) of this chapter who worked during or received wages as defined in section 1(s) of this chapter for the pay period which includes the twelfth day of each month of the applicable quarter. The report shall be submitted quarterly according to a schedule prescribed by the director. The report shall be deemed submitted when received by the division.

(d) The director may require by regulation an employer to submit the report specified in subsection (c) using a form and means of electronic transmittal as prescribed by the director. The regulation may include penalties for failure to comply with the filing requirements.

(e) If an employer fails to file any report or form required by this section or section 14G of this chapter within fifteen days from the date on which the director has mailed to such employer a demand for such report or form, the director may assess upon such employer a penalty as follows:

<u>WORKFORCE SIZE</u>	<u>PENALTY AMOUNT</u>
0-4	\$25.00
5-9	\$100.00
10-49	\$250.00
50-99	\$500.00
100-499	\$1,000.00
500 and up	\$2,500.00

The director shall determine the applicable workforce size by taking an average of the monthly employment count reported by the employer as required by subsection (c) for the most recent quarter; provided that, if the employer has not filed any reports required by subsection (c), the director may

determine the applicable workforce size from any available information. Each such failure to file shall constitute a separate and distinct offense.

(f) The director shall provide information secured under this section to the commissioner of the department of revenue pursuant to an interagency agreement between the division and the department of revenue. The commissioner of the department of revenue may provide such information pursuant to an interagency agreement with other governmental entities as specified in chapter sixty-two E or as otherwise provided by statute. The director is authorized to provide information secured under this section to other entities pursuant to an agreement which is consistent with the provision of 20 CFR Pt 603.

(g) Information secured pursuant to this section may be used as part of the Wage Record Interchange System established and implemented to carry out the provisions of the Workforce Investment Act of 1998.

(h) Except where inconsistent with the provisions of this section, the provisions of this chapter, including the rules and regulations adopted under this chapter, shall apply to the requirements of this section.

(i) The director shall promulgate regulations necessary to implement this section.

SECTION 79. Subsection (a) of section 15 of chapter 151A, as so appearing, is hereby amended by striking out the second paragraph.

SECTION 80. Sections 1 through 4 of this Act shall take effect October 1, 2009.

SECTION 81. Sections 5 through 24 of this Act shall take effect July 1, 2009.

SECTION 82. Sections 25 through 33 of this Act shall take effect January 1, 2010.

SECTION 83. Sections 34 through 38 of this Act shall take effect July 1, 2009.

SECTION 84. Sections 39 through 77 and section 79 of this Act shall take effect October 1, 2009.
Section 78 of this Act shall take effect July 1, 2009.